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To: MAIL STOP AF

From: Tamara Daw

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Attorney Docket: 112.P55008

**REMARKS**

The present patent application has been reviewed in light of the office action mentioned above, in which claim 18 is objected to because of the informality mentioned by the Examiner. Claims 15-21 and 28-41 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 15-17, 35-37, and 39-41 are rejected under 35 U.S.C. § 102(e) as being anticipated by Berstis, U.S. Patent No. 6,721,001 (hereinafter "Berstis"). Claims 18 and 38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Berstis in view of Maxium Technologies (Internet Publication, 2000). Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Berstis in view of Ochi et al., U.S. Patent No. 6,233,014 (hereinafter "Ochi"). Claims 20 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Berstis in view of Haranishi, U.S. Patent No. 5,764,779 (hereinafter "Haranishi"). Claims 28 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hashimoto et al., U.S. Patent No. 6,111,604 (hereinafter "Hashimoto") in view of Allen et al., U.S. Patent No. 5,737,491 (hereinafter "Allen"). Claims 30 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hashimoto in view of Allen and further in view of Ochi. Claim 32 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hashimoto in view of Allen and further in view of Ochi and of Maxium Technologies. Claim 33 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hashimoto in view of Allen and further in view of Haranishi. Reconsideration of the above-referenced patent application in view of the foregoing amendment and following remarks is respectfully requested.

Claims 15-21 and 28-41 are pending. Claims 15, 18, 28, 34-35, and 40 have been amended. No new matter has been added. The amendments to the claims are

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made without prejudice or disclaimer. In many instances, Assignee has amended claims to more clearly delineate intended subject matter, and not to overcome rejections based on cited documents. Such amendments do not narrow the scope of the claims and therefore no prosecution history estoppel should apply.

It is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

Objections Based on Informalities

Claim 18 is objected to because of the informality mentioned in the office action. Claim 18 has been amended to correct the informality, and therefore Assignee respectfully requests that the Examiner withdraw the objection to this claim.

Rejections under 35 U.S.C. § 112

Claims 15-21 and 28-41 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Although Assignee does not concede that these claims fail to comply with the written description requirement, claims 15, 28, 34-35, and 40 have been amended in order to overcome the rejection. Assignee, therefore, respectfully requests that the Examiner withdraw the rejection to these claims.

Rejections under 35 U.S.C. § 102(e)

Claims 15-17, 35-37, and 39-41 are rejected under 35 U.S.C. § 102(e) as being anticipated by Berstis. However, Berstis does not disclose

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"a second analog-digital converter electrically connected to said sound pickup device, said second analog-digital converter capable of converting said second analog signal into a second digital signal; and a processor electrically connected to said first and second analog-digital converters, the processor capable of producing a multimedia data file if the second digital signal matches a predetermined data" (emphasis added)

as claimed in amended claim 15. There is no disclosure in Berstis of producing a multimedia data file if a signal from a sound pickup device matches predetermined data.

Similarly, Berstis does not disclose "a sound pickup device capable of generating a sound digital signal and a voice signal capable of being used in a voice recognition routine" and a processor "capable of producing a multimedia data file comprising digital image and sound information if said voice signal matches predetermined data" (emphasis added) as claimed in amended claim 28. Therefore, claims 15 and 28 are not anticipated by Berstis. For similar reasons, independent claims 35 and 40 are also not anticipated by Berstis. Assignee respectfully requests that the Examiner withdraw the rejections to these claims and to the claims that depend from them.

It is noted that claimed subject matter may be patentably distinguished from the cited patent for additional reasons; however, the foregoing is believed to be sufficient.

## Rejections under 35 U.S.C. § 103(a)

Claims 18-21, 28-33, and 38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Berstis, Maxium Technologies, Ochi, Haranishi, Hashimoto, and Allen. However, none of the above documents teach or suggest, either alone or in combination,

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"a second analog-digital converter electrically connected to said sound pickup device, said second analog-digital converter capable of converting said second analog signal into a second digital signal; and

a processor electrically connected to said first and second analog-digital converters, the processor capable of producing a multimedia data file if the second digital signal matches a predetermined data" (emphasis added)

as claimed in amended claim 15. There is no disclosure or teaching in any of the cited documents of producing a multimedia data file if a signal from a sound pickup device matches predetermined data.

Similarly, none of the cited documents, either alone or in combination, teach or suggest "a sound pickup device capable of generating a sound digital signal and a voice signal capable of being used in a voice recognition routine" and a processor "capable of producing a multimedia data file comprising digital image and sound information if said voice signal matches predetermined data" (emphasis added) as claimed in amended claim 28. Therefore, claims 15 and 28 are patentably distinguished over the cited documents. For similar reasons, independent claims 35 and 40 are also patentable distinguished over the cited documents. Assignee respectfully requests that the Examiner withdraw the rejections to these claims and to the claims that depend from them.

It is noted that claimed subject matter may be patentably distinguished from the cited patents and/or Internet publication for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

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**CONCLUSION**

In view of the foregoing, it is respectfully asserted that all of the claims pending in the present patent application are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 439-6500.

Reconsideration of the present patent application and early allowance of all the claims is respectfully requested. Please charge any underpayments or credit any overpayments to deposit account no. 50-3703.

Respectfully submitted,

Dated: September 29, 2006/Calvin E. Wells Reg. No. 43,256/  
Calvin E. Wells  
Reg. No. 43,256

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